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Departmental Personnel Domestic Violence Protocol

Directive: **6.86**

I. PURPOSE

This policy acknowledges that some police officers commit domestic violence against their intimate partners. The purpose of this policy is to establish procedures for handling matters of domestic violence and abuse involving police officers. This policy will provide police executives and officers guidance in addressing incidents where one (or more) party to a possible domestic violence incident is a sworn member of this Department.

II. POLICY

The policy takes a continuum approach seeking first to continually educate then prevent, or interdict domestic abuse situations early on in order to reduce victimization of the partner and increase the chances of officer career stability.

Where incidents of domestic violence are alleged to have occurred, the Department will act quickly to protect the victim, arrest the perpetrator, and conduct parallel administrative and criminal investigations.

This policy delineates a position by the Department of absolute intolerance (i.e., zero tolerance) of domestic violence. An officer found guilty of domestic violence, through criminal court, will be terminated. Additionally, a complaint of Domestic Violence, which is substantiated in an Administrative Hearing, may result in the termination of the accused officer. Refer to Chapter 7, 7.1 (B) of the Police Officer's Manual.

Any sworn member of this Department involved in domestic violence where he/she is placed in the First Offenders Domestic Violence Diversion Program through criminal court, or a Complaint Hearing Board and if substantiated, will be consider a Class "A" violation under Chapter 7.1 (B) of the Police Officer's Manual.

Any sworn member of this Department involved in a Domestic Disturbance which is

substantiated in an Complaint Hearing Board will be considered a Class “C” violation under Chapter 7.1 (B) of the Police Officer’s Manual.

This policy will apply to past convictions, and existing future police officer domestic violence crimes. For further details refer to U.S. Code: Title 18, Section 922.

III. DEFINITIONS

Domestic Violence:

For the purposes of this policy, refers to any act of violence (threatened or actual) including but not limited to:

- The infliction of physical injury by one or more family or household member(s) upon another;
- The attempt to inflict a physical injury by one or more family or household member(s) upon another;
- The threatened infliction of physical injury by one or more family or household member(s) upon another;
- Sexual assault of a family member by another or threat thereof.

Domestic Disturbance:

- A dispute between family members which does not rise to the level of an act of “Domestic Violence”.

Family or Household:

- Spouses, former spouses, adult persons related by blood or marriage; persons who are presently residing together or who have resided together in the past; and persons who have a child in common regardless of whether they have been married or have lived together at any time.

Note: For further details refer to Section 6.19 of the Police Officer’s Manual

IV. INVOLVED OFFICER’S RESPONSIBILITIES

1. An officer who is the accused in a domestic related criminal investigation, PFA order, or a court mandated No Contact Order, shall immediately report this to the on duty supervisor and provide notice of the court dates, times, appearances, and proceedings.
2. An officer, who is prohibited from purchasing or possessing a firearm by a PFA order, shall immediately notify a supervisor upon service or notification of such an order.

3. Until the PFA is modified, rescinded, or otherwise expires, the officer shall remain in compliance with the order's prohibitions.
4. It is the responsibility of the officer receiving the notice of a PFA to seek any modification or cancellation from the Family Court.
5. Unless extenuating circumstances exist, an officer prohibited from purchasing or possessing a firearm by a PFA may be allowed to utilize accrued leave time (vacation, compensatory, but not sick time) until such order is rescinded or modified. NOTE: The restrained individual has 14 days from the date he/she is notified to file a motion to rescind or modify the PFA and the court has 14 days to schedule a hearing.
6. In the event that such an order is not modified or rescinded, within the time period describe above, the status of the officer's employment with the department will be evaluated.

V. PROCEDURES

This policy applies to past convictions for domestic violence, as well as existing and future offenses. In the process of adopting this policy of zero tolerance, departments must review the records of all officers to ensure they are free of domestic violence convictions.

Federal law prohibits police officers that have been convicted of misdemeanor domestic violence crimes from possessing a firearm. U.S. Code: Title 18, Section 922.

A. Prevention, Education, and Training

The Department will adhere to a zero tolerance policy towards police officer domestic violence, and violations of the policy will not be tolerated. The Department will provide training to officers on domestic violence and the zero tolerance policy.

1. Prevention through Collaboration

- a. The Department will collaborate with the Domestic Violence Coordinator, and local and state domestic violence coalitions in the development of domestic violence training curricula.
- b. The Department will collaborate with local and national law enforcement agencies that have already implemented domestic violence training. The information gathered will serve as a guideline for the development of domestic violence training curricula, and experienced officers from these jurisdictions can assist in training within the Department.

2. Education

- a. All agency employees will receive instruction appropriate to their employment level.
- b. Additional Administrative Command/Supervisor training related to domestic violence should address the following:

- *Department Legal Considerations and Liability
- *Criminal versus Administrative Investigations
- *Conducting Lethality/Dangerous Assessments

3. Training

- a. In-Service Training

Department will select a series of effective and concise materials on domestic violence for routine dissemination to all personnel. Periodic in-service training on domestic violence and stalking will be held to review policies and discuss their implementation.

4. Program Evaluation

To enhance the effectiveness of the training, Department should work with internal or external research resources to evaluate the training being provided.

B. Early Warning and Intervention

1. Pre-Hire Screening and Investigation

- a. Department will conduct thorough background investigations of all potential new employees to determine if elder abuse, child abuse, and/or domestic violence issues exist.
- b. All candidates will be asked about past arrests or convictions for elder abuse, child abuse, and/or domestic violence-related incidents and past civil protection orders.
- c. Those candidates with a history of perpetrating elder abuse, child abuse or domestic violence will be screened out at this point in the hiring process.

2. Post-Conditional Offer of Employment

- a. The Department will require a psychological examination of all viable candidates to be performed by an experienced psychologist and/or psychiatrist.

- b. The psychological screening will focus on indicators of violent or abusive tendencies or behaviors in their background.

3. Post-Hire Intervention

Part of the curriculum for the Police Academy training will encompass training that includes families of the recruits to discuss Domestic Violence and other stressful issues. Families will be instructed on whom to call in the Department if problems occur.

4. Department Responsibilities

- a. The Department will, either in response to observed warning signs of stress or at the request of an officer, provide non-punitive avenues of assistance to officers, their partners, and other family members.
- b. The Department will identify a procedure for making confidential referrals to confidential counseling services either internally or in collaboration with existing community services that have specific expertise in domestic violence. This will fall under the Employee Assistance Program.
- c. Officers who disclose to any member of the Department that they have recently engaged in domestic violence are not entitled to confidentiality. The report of such criminal conduct must be treated as an admission of a crime and will be investigated both criminally and administratively.

5. Supervisor Responsibilities

- a. Supervisors will be cognizant of and document all behavior, on or off duty, where officers may be exhibiting signs of possible domestic violence-related problems; including increased use of force during arrests, alcohol and/or drug abuse, increase in controlling behaviors, stalking activity, citizen and fellow officer complaints of unwarranted aggression and verbal abuse, and inappropriate aggression toward animals.
- b. The Chief of Police will be informed of such circumstances or concerns in a timely manner through the Department's chain of command for appropriate action.

6. Police Officer Responsibilities

- a. Officers are encouraged and entitled to seek confidential assistance from the Department to prevent a problem from escalating to the level of criminal conduct against an intimate partner.

- b. Officers with definitive knowledge of abuse and/or violence involving fellow officers must report such information in a timely manner to their supervisor.
Failure to do so will subject the officer to investigation, and disciplinary action. Chapter 7, 7.6 (E) Failure to Take Appropriate Action When Necessary.
- c. All officers will be aware of possible witness or victim intimidation/coercion. Whenever an officer suspects this is occurring, he/she will prepare a written report and immediately deliver it to the investigator in charge of the case through the proper chain of command.
- d. Officers who engage in threatening, harassing, stalking, surveillance, or other such behavior designed to interfere with cases against fellow officers or intimidate witnesses will be subject to investigation, disciplinary action, and possible sanction and/or criminal charges.
- e. Officers who fail to cooperate with the investigation of a police officer domestic violence case will be subject to investigation and disciplinary action.
- f. An officer who falsely reports that a victim of police officer domestic violence has committed a crime (such as child abuse or neglect) will be subject to investigation, and possible sanction and/or criminal charges.
- g. An officer who is the subject of a criminal investigation, civil protective or restraining order related to domestic violence, regardless of jurisdiction, is required to report him/herself to his/her supervisor and provide notice of the court dates, times, appearances, and proceedings in a timely manner.
- h. An accused officer who is the subject of any civil protective order proceeding, whether or not the order is issued and regardless of jurisdiction, will notify his/her supervisor within 24 hours of notification and provide a copy of the order, if issued, to his/her supervisor.

C. Incident Response Protocols

1. Department-wide Response

- a. The Department will accept, document, and preserve all calls or reports, including those made anonymously, involving possible police officer domestic violence with the approval of the Inspector of Investigative Operations.
- b. All reports of possible criminal activity implicating police officers in domestic violence will be documented in accordance with the policies

governing the handling of all reports of domestic violence by citizens. A criminal incident report will be completed including details on date, time, location, circumstances, names (if known), officials notified, and action(s) taken. A case file number will be assigned and the report filed.

- c. A copy of the report detailing the possible criminal activity implicating an officer in domestic violence will be directed to that officer's Division Commander.
- d. All such incident reports will be made available by the Department to the involved victim without cost per the Victim's Bill of Rights.
- e. The Criminal Investigations Division Commander and the Office of Professional Standards Commander will be immediately contacted when incidents of domestic violence are reported, which involve officers from this Department.

2. Communications Response

- a. Communications officers/dispatchers will document all domestic violence calls received that involve, or appear to involve, a police officer and immediately notify the Watch Commander or his designee, regardless of the involved officer's jurisdiction.
- b. Communications personnel will have available current lists of local domestic violence victim advocacy organizations and the Domestic Violence Coordinator (573-7722) for on-scene supervisors to provide to victims.

3. Uniformed Services Response

- a. Upon arrival on the scene of a domestic violence call/incident involving a police officer, the primary Uniformed Services unit will immediately notify dispatch and request a supervisor be sent to the scene, regardless of the involved officer's jurisdiction.
- b. If the alleged offender has left the scene and probable cause exists, the responding officers will:
 - search the area as appropriate
 - obtain information from victim, family, and witnesses as to where the offender may have gone

4. On-Scene Supervisor Response

- a. The Watch Commander will report to the scene of all police officer domestic violence situations, regardless of the involved officer's jurisdiction.
- b. The Watch Commander will assume command, ensure that the crime scene is secured and that all evidence is collected, including color photographs. Video documentation of the victim and scene should be recorded in all felony incidents.
- c. The Watch Commander will consult with the Commanding Officer of the Criminal Investigations Division regarding any possible arrest action.
- d. In cases where probable cause exists, the Watch Commander will ensure an arrest is made.
- e. If the offender has left the scene, the Watch Commander will ensure a search is conducted and an arrest warrant, if necessary, is obtained.
- f. The Watch Commander will ensure that a thorough investigation is conducted and an arrest of the primary aggressor is made in accordance with state law. Dual arrests are discouraged.
- g. Wherever an officer is arrested, the Watch Commander will relieve the accused officer of his/her service weapon regardless of whether the officer is a member of the Department. Where allowable under federal, state, or local ordinances, all other firearms owned, or at the disposal of the accused officer, will be removed to ensure the victim's safety.
- h. Whenever a police officer domestic violence call does not result in an arrest, the Watch Commander will submit a written report.
- i. The Watch Commander will ensure the victim is informed of the following:
 - 1. The availability of a Domestic Violence Coordinator.
 - 2. Confidential transportation to a safe house, shelter, or any other location that ensures victim safety.
 - 3. Procedures for obtaining restraining and/or protective orders and victim rights.

4. The standard of probable cause for arrest, including the signature to appear on the complaint.
5. Judicial process, victim rights, and compensation following an arrest.

5. Additional Critical Considerations

- a. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding officers, investigators, and supervisors will follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from their own department. The responding Watch Commander will notify a supervisor in the accused officer's jurisdiction as soon as possible. The supervisor will note the rank and name of the supervisor he/she contacted in their final report.
- b. In the event that the reported incident involves the Chief of Police or Director, the Watch Commander will immediately notify the individual in government, who has direct oversight for the Chief, for example, the Mayor.
- c. In responding to domestic violence situations where the victim is a police officer, standard domestic violence response and investigation procedures should be followed.
- d. In responding to domestic violence incidents where the parties involved are both police officers, standard domestic violence response and investigation procedures should be followed. After probable cause and dominant aggressor are determined, an arrest should be made and all service weapons of the accused officer confiscated.

6. Department Follow-Up

- a. The Watch Commander will in a timely manner debrief all officers who respond to a police officer domestic violence call. During the debriefing, the Watch Commander will:
 1. Review Department confidentiality guidelines.
 2. Reaffirm that officers share information only on a need-to-know basis.
 3. Establish a clear delineation of assignments in order to assist victims in a coordinated and consistent manner.

- b. On-scene and follow-up investigators will proactively seek out information on existing restraining and/or protective orders and, if found, will enforce them.
- c. Following the reported incident, the Department will designate an investigator from the Office of Professional Standards to act as a principal contact for the victim. The assigned officer will keep the victim apprised of the case throughout the adjudication process and provide the victim with a copy of the incident report.
- d. The Department will need to make decisions concerning referrals, duty assignments, and administrative sanctions.

D. Victim Safety and Protection

- 1. Working with the Domestic Violence Coordinator, the Department will make available all necessary and appropriate services to each victim.
- 2. All officers will keep all information concerning victims confidential, including their whereabouts, safety plan, and any communications.
- 3. The Office of Professional Standards Investigator will inquire whether the victim wants any weapons removed from his/her home for safekeeping by the Department.
- 4. All officers will be aware of the increased danger to victims when the victim leaves an abusive partner, and the designated Office of Professional Standards Investigator will caution the victim to be alert to stalking activities on the part of the abuser and assist in safety planning.
- 5. The Domestic Violence Coordinator will inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.
- 6. All officers will be aware of possible witness or victim intimidation/coercion. Whenever an officer suspects this is occurring, he/she will prepare a written report and immediately deliver it to the investigator in charge of the case through the proper chain of command.
 - a. In order to ensure coercion is not being attempted, the investigator in charge will seek out secondary sources of information.
 - b. Given the likelihood that a victim will recant, supplemental evidence should be sought out and preserved.

E. Post-Incident Administrative and Criminal Decisions

Department will conduct separate parallel administrative and criminal investigations of alleged incidents of police officer domestic violence. If the facts of the case indicate that domestic violence has occurred or any Departmental policies have been violated, administrative action will be taken separate and distinct from any criminal proceedings as soon as practicable. Independent of the outcome of the criminal case, the Department will adhere to all positions and policies relating to the incident. The Department will adhere to/observe all necessary protocols to ensure an accused officer's Departmental, union, and legal rights are upheld during the administrative and criminal investigations.

1. Administrative Investigations and Decisions

The responsibility to complete the administrative investigation of a police officer domestic violence incident will rest with the Office of Professional Standards.

- a. The Office of Professional Standards will conduct an administrative investigation utilizing standard elements of criminal investigations. Witnesses will be contacted, re-interviewed, and statements recorded; crime scene evidence, photographs, and medical records accessed, 911 tapes requested, and all information fully documented.
- b. Where sufficient information exists, the Department will take immediate administrative action to intervene, which can include removal of badge, removal of weapon, reassignment, administrative leave with or without pay, or termination.
- c. Where an arrest was not made, but sufficient concern exists, the Department will initiate an independent administrative investigation and decide the officer's status based on the outcome of the investigation.
- d. In determining the proper course of administrative action, the Department will consider factors such as level of danger an officer poses to the victim based on an officer's history of compliance with Departmental rules, history of aggressive behaviors, and existence of an alcohol or substance abuse problem.
- e. Pending the administrative and criminal investigations for alleged acts of domestic violence and/or violation of Departmental policies, the Department will assign the accused officer to non-public-contact assignments or administrative suspensions.

2. Criminal Investigations and Decisions

The responsibility to complete a criminal investigation of an incident of police officer domestic violence will rest with the Commanding Officer of the Criminal Investigations Division.

- a. The assigned Criminal Investigations Division supervisor will conduct criminal investigations as he/she would for any other criminal violation. Witnesses will be contacted, statements recorded, evidence collected, photographs taken of the scene and injuries, medical records accessed, 911 tapes requested, and all information fully documented.
- b. When appropriate, the investigating official or Department will conduct sufficient recorded interviews to include family members, friends, neighbors, colleagues, or others who may have information in accordance with the officer's and victim's privacy rights.
- c. Even though an initial report may already exist concerning a police officer, if the victim reports any subsequent or additional criminal activity, each incident will be documented separately, assigned a case number, and investigated thoroughly.
- d. The Department will completely investigate the charges and where warranted, seek prosecution even if the victim recants the charges.
- e. The Department will establish contact with the prosecutor/Deputy Attorney General for each case. This officer will present the information to the Deputy Attorney General for proper action in a timely fashion and request that the prosecuting attorney in turn make timely decisions about the adjudication of the case.

3. Criminal Conviction

- a. Federal law prohibits officers convicted of misdemeanor domestic violence assaults from carrying firearms. The Department will ensure compliance with federal law.
- b. Any police officer convicted of a domestic violence crime as defined herein shall be terminated.